

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BRENT TIMMER,

Petitioner,

Case Number 2:20-CV-13261

Honorable Arthur J. Tarnow

v.

SHERMAN CAMPBELL,

Respondent.

_____ /

**OPINION AND ORDER GRANTING PETITIONER AN EXTENSION OF
TIME TO FILE HIS AMENDED PETITION (ECF No. 5).**

On November 30, 2020, Brent Timmer, (“petitioner”), filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. This Court construed his pleadings as a “protective petition,” due to the prison lockdown which prevented petitioner from research and filing a timely habeas petition. The Court granted petitioner an extension of ninety (90) days from the date that the prison lockdown ends in the Michigan Department of Corrections and full prison library privileges are restored to file an amended habeas petition, any memorandum of law in support of the petition, and any motion to stay the proceedings pending the exhaustion of additional claims in the state courts. If petitioner chose to return to the state courts to exhaust additional claims,

he was free at that time to file a motion to stay the proceedings during the pendency of any state post-conviction proceedings.

Petitioner now claims that he filed a motion for relief from judgment pursuant to MCR 6.500, and an Application for Leave to Appeal from the motion for relief from judgment with the Michigan Supreme Court, on June 8, 2021.

Petitioner requests additional time to pursue his state court remedies and to prepare and file his amended petition.

A federal district court has the power to extend the stay of a habeas petition, particularly where the respondent does not oppose the extension of the stay. See *e.g. Roberts v. Norris*, 415 F.3d 816, 819 (8th Cir. 2005). Petitioner did all that he could reasonably do to pursue his state court remedies and then research and file his amended petition on time. This Court indicated that an additional stay would be granted if petitioner chose to file a motion for relief from judgment with the state courts. Petitioner is granted a ninety (90) day extension of time, following the conclusion of the state court post-conviction proceedings, to file his amended habeas petition.

ORDER

It is **ORDERED** that the motion for an extension of time is **GRANTED**.

The case is held in abeyance pending petitioner's exhaustion of his state court remedies. Petitioner shall file a motion to lift the stay using the same caption and case number within **ninety (90) days after the conclusion of the state court post-conviction proceedings**. Petitioner is free at that time to file an amended habeas petition containing the arguments that he raised before the state courts with respect to his claims.

It is further **ORDERED** that upon receipt of a motion to reinstate the habeas petition following exhaustion of state court remedies, the Court may order the Clerk to reopen this case for statistical purposes.

s/Arthur J. Tarnow
ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

Dated: July 13, 2021